

**U.S. DEPARTMENT OF TRANSPORTATION  
OFFICE OF HEARINGS  
WASHINGTON, D.C.**

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IN THE MATTER OF

AIR SEA CONTAINERS, INC.,  
Respondent.

DOCKET NO. PHMSA-2008-0350  
(Pipeline and Hazardous Materials Safety Administration)

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**COMPLAINANT'S MOTION IN OPPOSITION TO  
RESPONDENT'S MOTION FOR PROTECTIVE ORDER**

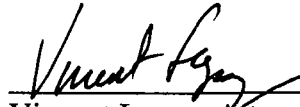
Complainant, the Pipeline and Hazardous Materials Safety Administration (PHMSA), respectfully requests that the Administrative Law Judge deny Respondent's Motion For Protective Order (Motion), or in the alternative, refrain from taking action on Respondent's Motion until such time as the parties have in good faith attempted to resolve any discovery disputes in accordance with the Rules of Civil Procedure.

Complainant contends that Respondent's Motion does not conform to the requirements of the Rules of Civil Procedure. Specifically, Respondent's Motion "must include a certification that [it] has in good faith conferred or attempted to confer with [Complainant] in an effort to resolve the dispute without court action." *see Fed. R. Civ. P. 26(c)(1)*. Before filing its Motion, Respondent did not confer, or even attempt to confer, with Complainant regarding any discovery issues. Since Respondent did not confer or attempt to confer with Complainant prior to filing its Motion, it could not, and did not 'certify' that it had done so in accordance with the requirements of Rule 26. As such, Respondent's Motion should be denied.

Complainant further contends that Respondent's Motion fails to show good cause, in that Respondent does not identify the discovery requests that are at issue, or its objections thereto, in contravention of the Rules of Civil Procedure. *See id.* Rather, Respondent's Motion seeks a protective order merely based on vague and broad objections to unspecified discovery requests. Accordingly, Respondent's Motion should be denied.

**WHEREFORE**, for the foregoing reasons, Complainant PHMSA respectfully requests the Administrative Law Judge deny Respondent's Motion For Protective Order, or in the alternative, refrain from taking action on the Motion until such time as the parties have in good faith attempted to resolve any discovery disputes in accordance with the Rules of Civil Procedure.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Vincent Lopez", is written over a horizontal line.

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Dated: May 13, 2009

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